

# Rubin & Hays

ATTORNEYS AT LAW

Kentucky Home Trust Building, 450 South Third Street, Louisville, Kentucky 40202-1410  
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CHARLES S. MUSSON  
W. RANDALL JONES  
CHRISTIAN L. JUCKETT

October 5, 2006

RECEIVED

OCT 6 2006

PUBLIC SERVICE  
COMMISSION

Ms. Beth O'Donnell  
Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, Kentucky 40602

*Case No. 2006-00438*

Re: Mountain Water District - KRS 278.023 Application

Dear Ms. O'Donnell:

Enclosed please find the original and ten (10) copies of the Application of the Mountain Water District for a Certificate of Public Convenience and Necessity to construct, finance and increase rates pursuant to KRS 278.023.


Also enclosed are eleven (11) copies of the exhibits required pursuant to 807 KAR 5.069, with the exception of the **Preliminary and Final Engineering Reports, of which two (2) copies will be forwarded under separate cover.**

If you need any additional information or documentation, please let us know.

Sincerely,

Rubin & Hays

By

  
W. Randall Jones

WRJ:jlm  
Enclosures  
cc: Distribution List

**DISTRIBUTION LIST**

Account No. 2286.0000

**Re: Mountain Water District Sewer System Revenue Bonds, Series 2006, in the principal amount of \$650,000 (Cowpen Sewer Project)**

Mr. Kenneth Slone, State Director  
Rural Development  
771 Corporate Drive, Suite 200  
Lexington, Kentucky 40503-5744

Phone: (859) 224-7336  
Fax: (859) 224-7425

Mr. Ronnie Brooks  
Rural Development  
220 West First Street  
Morehead, Kentucky 40351

Phone: (606) 784-6447  
Fax: (606) 784-2076

Mr. Will Brown, Superintendent  
Mountain Water District  
P.O. Box 3157  
Pikeville, Kentucky 41502-3157

Phone: (606) 631-9162  
Fax: (606) 631-3087

Mr. Doug Griffin  
Kenvirons, Inc.  
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Frankfort, Kentucky 40601

Phone: (502) 695-4357  
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Daniel Stratton, Esq.  
Stratton, Hogg & Maddox, P.S.C.  
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Pikeville, Kentucky 41502-1530

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W. Randall Jones, Esq.  
Rubin & Hays  
Kentucky Home Trust Building  
450 South Third Street  
Louisville, Kentucky 40202

Phone: (502) 569-7534  
Fax: (502) 569-7555

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

OCT 6 2005

PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF MOUNTAIN )  
WATER DISTRICT FOR A CERTIFICATE )  
OF PUBLIC CONVENIENCE AND )  
NECESSITY TO CONSTRUCT, FINANCE AND )  
INCREASE RATES PURSUANT TO KRS 278.023)

CASE NO. 2006-00438

APPLICATION

This Application of the Mountain Water District ("Applicant") respectfully shows:

1. That Applicant is a water district of Pike County, Kentucky, created and existing under and by virtue of Chapter 74 of the Kentucky Revised Statutes.

2. That the post office address of Applicant is:

Mountain Water District  
c/o Mr. Will Brown, Manager  
P.O. Box 3157  
Pikeville, Kentucky 41502-3157

3. That Applicant, pursuant to the provisions of KRS 278.020 and 278.023, seeks (i) a Certificate of Public Convenience and Necessity, permitting Applicant to construct a sewer construction project, consisting of extensions, additions, and improvements (the "Project") to the existing sewer system of Applicant; (ii) an Order approving increased rates; and (iii) approval of the proposed plan of financing said Project.

4. That the project consists of the extension of sewer service to the residents of Cowpen Creek and Harmons Branch and the redirection of sewer flow from the Mossy Bottom sewer treatment plant to the City of Pikeville treatment plant.

5. That Applicant proposes to finance the construction of the Project through (i) the issuance of \$650,000 of its Sewer System Revenue Bonds; (ii) a Rural Development ("RD") grant in the amount of \$250,000; (iii) an Environmental Protection Agency ("EPA") grant in the amount of \$967,800; and (iv) a contribution from the City of Pikeville in the amount of \$143,120. Applicant has a commitment from RD to purchase said \$650,000 of bonds maturing over a 40-year period, at an interest rate of not exceeding 4.25% per annum, as set out in the RD Letter of Conditions filed herewith as an Exhibit.

6. That Applicant does not contemplate having the Project constructed with any deviation from minimum construction standards of this Public Service Commission.

7. That Applicant files herewith the following Exhibits pursuant to 807 KAR 5:069 in support of this Application:

- A. Copy of RD Letter of Conditions.
- B. Copy of RD Letter of Concurrence in Contract Award.
- C. Copy of Preliminary and Final Engineering Reports.
- D. Certified statement from the Chairperson of Applicant, based upon statements of the Engineers for Applicant, concerning the following:
  - (1) The proposed plans and specifications for the Project have been designed to meet the minimum construction and operating requirements set out in 807 KAR 5:066, Section 4 (3) and (4); Section 5 (1); Sections 6 and 7; Section 8 (1) through (3); Section 9 (1) and Section 10;
  - (2) All other state approvals or permits have already been obtained;
  - (3) The proposed rates of Applicant shall produce the total revenue requirements set out in the engineering reports; and
  - (4) Setting out the dates when it is anticipated that construction will begin and end.


8. That Applicant has arranged for the publication, prior to or at the same time this Application is filed, of a Notice of Proposed Rate Change pursuant to Section 2 of 807 KAR 5:069, in the Appalachian News-Express, which is the newspaper of general circulation in Applicant's service area and in Pike County, Kentucky. Said Notice sets out the current rates and the proposed rates of Applicant and a short description of the Project. A copy of said Notice is filed herewith as an Exhibit.

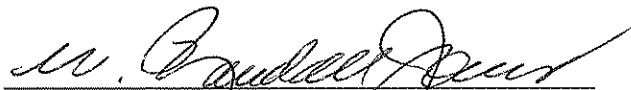
9. That the foregoing constitutes the documents necessary to obtain the approval of the Kentucky Public Service Commission in accordance with Section 278.023 of the Kentucky Revised Statutes and in accordance with the "Filing Requirements" specified in 807 KAR 5:069, Section 1.

WHEREFORE, Applicant, the Mountain Water District asks that the Public Service Commission of the Commonwealth of Kentucky grant to Applicant the following:

- a. A Certificate of Public Convenience and Necessity permitting Applicant to construct a sewer project consisting of extensions, additions, and improvements to the existing sewer system of Applicant.
- b. An Order approving the financing arrangements made by Applicant, viz., the issuance of (i) \$650,000 of Mountain Water District Sewer System Revenue Bonds at an interest rate of not exceeding 4.25% per annum; (ii) an RD grant in the amount of \$250,000; (iii) an EPA grant in the amount of \$967,800; and (iv) a contribution from the City of Pikeville in the amount of \$143,120.
- c. An Order approving the proposed increased rates as set out in Section 26 of the RD Letter of Conditions, filed herewith as an Exhibit.

Mountain Water District

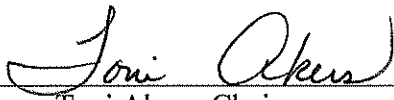
By:   
Chairperson  
Board of Water Commissioners

  
W. Randall Jones, Esq.  
Rubin & Hays  
Counsel for Applicant  
Kentucky Home Trust Building  
450 South Third Street  
Louisville, Kentucky 40202  
(502) 569-7525

COMMONWEALTH OF KENTUCKY )  
 ) SS:  
COUNTY OF PIKE )

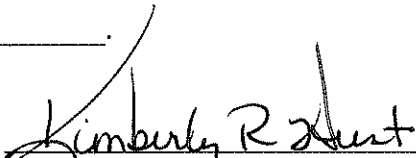
The undersigned, Toni Akers, being duly sworn, deposes and states that she is the Chairperson of the Board of Commissioners of the Mountain Water District, Applicant, in the above proceedings; that she has read the foregoing Application and has noted the contents thereof; that the same is true of her own knowledge, except as to matters which are therein stated on information or belief, and as to those matters, believes same to be true.

IN TESTIMONY WHEREOF, witness the signature of the undersigned on this September, 27, 2006.

  
\_\_\_\_\_  
Toni Akers, Chairperson  
Mountain Water District

Subscribed and sworn to before me by Toni Akers, Chairperson of the Board of Commissioners of the Mountain Water District, on this September 27, 2006.

My Commission expires: 10-28-08.

  
\_\_\_\_\_  
Kimberly R. Hunt  
Notary Public, Pike County, Kentucky





**United States Department of Agriculture**  
**Rural Development**  
Kentucky State Office

December 20, 2005

Ms. Toni Akers, Chairperson  
Mountain Water District  
P.O. Box 3157  
Pikeville, Kentucky 41502

Dear Ms. Akers:

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to the application. The loan and/or grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area office staff of USDA Rural Development. Any changes in project cost, source of funds, scope of services or any other significant changes in the project or applicant must be reported to and approved by USDA Rural Development, by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application. It should also be understood that Rural Development is under no obligation to provide additional funds to meet an overrun in construction costs.

This letter is not to be considered as loan and/or grant approval or as a representation as to the availability of funds. The docket may be completed on the basis of a RUS loan not to exceed \$650,000, a RUS grant not to exceed \$250,000, and an Environmental Protection Agency (EPA) grant in the amount of \$967,800.

If Rural Development makes the loan, the interest rate will be the lower of the rate in effect at the time of loan approval or the rate in effect at the time of loan closing, unless the applicant otherwise chooses. The loan will be considered approved on the date a signed copy of Form RD 1940-1, "Request for Obligation of Funds," is mailed to you.

Please complete and return the attached Form RD 1942-46, "Letter of Intent to Meet Conditions," if you desire that further consideration be given to your application.

The "Letter of Intent to Meet Conditions" must be executed within three weeks from the date of this letter or it becomes invalid unless a time extension is granted by Rural Development.

If the conditions set forth in this letter are not met within 240 days from the date hereof, Rural Development reserves the right to discontinue the processing of the application.

In signing Form RD 1942-46, "Letter of Intent to Meet Conditions," you are agreeing to complete the following as expeditiously as possible:



1. Number of Users and Their Contribution:

There shall be 2,174 sewer users, of which 2,073 are existing users and 101 are new users. The Area Director will review and authenticate the number of users prior to advertising for construction bids. No contribution is required from the District.

1a. Grant Agreement:

Attached is a copy of RUS Bulletin 1780-12, "Water and Waste System Grant Agreement," for your review. You will be required to execute a completed form at the time of grant closing.

1b. Drug-Free Work Place:

Prior to grant approval, the District will be required to execute Form AD-1049, "Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I - For Grantees Other Than Individuals."

2. Repayment Period:

The loan will be scheduled for repayment over a period not to exceed 40 years from the date of the bond. Principal payment will not be deferred for a period in excess of two years from the date of the bond. Payments will be in accordance with applicable KRS, which requires interest to be paid semi-annually (January 1st and July 1st) and principal will be due on or before the first of January. Rural Development may require the District to adopt a supplemental payment agreement providing for monthly payments of principal and interest so long as the bond is held or insured by RUS. Monthly payments will be approximate amortized installments.

3. Recommended Repayment Method:

Payments on this loan can be made using the Preauthorized Debit (PAD) payment method. This procedure eliminates the need for paper checks and ensures timely receipt of RD loan payments. To initiate PAD payments, Form SF 5510, "Authorization Agreement for Preauthorized Payments," should be signed by the District to authorize the electronic withdrawal of funds from your designated bank account on the exact installment payment due date. The Area Director will furnish the necessary forms and further guidance on the PAD procedure.

4. Reserve Accounts:

Reserves must be properly budgeted to maintain the financial viability of any operation. Reserves are important to fund unanticipated emergency maintenance and repairs and assist with debt service should the need arise.

The District will be required to deposit \$290.00 per month into a "Funded Depreciation Reserve Account" until the account reaches \$34,800. The deposits are to be resumed any time the account falls below the \$34,800.

The required monthly deposits to the Reserve Account and required Reserve Account levels are in addition to the requirements of the District's prior bond ordinances.

The monthly deposits to the Reserve Account are required to commence with the first month of the first full fiscal year after the facility becomes operational.

The District also needs to fund an account for short-lived assets by depositing a sum of \$2,925 monthly into the account. The funds in the short-lived asset account may be used by the District as needed to replace or add short-lived assets in the District's utility system.

5. Security Requirements:

A pledge of gross <sup>sewer</sup>water revenue will be provided in the Bond Resolution. Bonds shall rank on a parity with existing bonds, if possible. If this is not possible, the bond will be subordinate and junior to the existing bonds, in which case the District will be required to abrogate its right to issue additional bonds ranking on a parity with the existing bonds, so long as any unpaid indebtedness remains on this bond issue.

6. Land Rights and Real Property:

The District will be required to furnish satisfactory title, easements, etc., necessary to install, maintain and operate the facility to serve the intended users. The pipelines will be on private rights-of-way where feasible. Easements and options are to be secured prior to advertising for construction bids.

7. Organization:

The District will be legally organized under applicable KRS which will permit them to perform this service, borrow and repay money.

8. Business Operations:

The District will be required to operate the system under a well-established set of resolutions, rules and regulations. A budget must be established annually and adopted by the District after review by Rural Development. At no later than loan pre-closing, the District will be required to furnish a prior approved management plan to include, as a minimum, provisions for management, maintenance, meter reading, miscellaneous services, billing, collecting, bookkeeping, making and delivering required reports and audits.

9. Accounts, Records and Audits:

The District will be required to maintain adequate records and accounts and submit statistical and financial reports, quarterly and annually, in accordance with subsection 1780.47 of RUS Instruction 1780 and RUS Staff Instruction 1780-4, a copy of which is enclosed. The enclosed audit booklet will be used as a guide for preparation of audits. The District will be required to establish and maintain separate accounts for each system. Annual audits, budgets, and reports will be submitted to Rural Development showing separate accounts. The District shall be required to submit a copy of its audit agreement for review and concurrence by Rural Development prior to pre-closing the loan.

10. Accomplish Audits for Years in Which Federal Financial Assistance is Received:

The District will accomplish audits in accordance with OMB Circular A-133, during the years in which federal funds are received. The District will provide copies of the audits to the Area Office and the appropriate Federal cognizant agency as designated by OMB Circular A-133.

11. Insurance and Bonding:

The following insurance and bonding will be required:

- A. Adequate Liability and Property Damage Insurance including vehicular coverage, if applicable, must be obtained and maintained by the District. The District should obtain amounts of coverage as recommended by its attorney, consulting engineer and/or insurance provider.
- B. Worker's Compensation - The District will carry worker's compensation insurance for employees in accordance with applicable state laws.
- C. Fidelity Bond - The District will provide Fidelity Bond Coverage for all persons who have access to funds. Coverage may be provided either for all individual positions or persons, or through "blanket" coverage providing protection for all appropriate employees and/or officials. The amount of coverage required for all RUS loans is \$723,000.
- D. Real Property Insurance - The District will obtain and maintain adequate fire and extended coverage on all structures including major items of equipment or machinery located in the structures. The amounts of coverage should be based on recommendations obtained by the District from its attorney, consulting engineer and/or insurance provider. Subsurface lift stations do not have to be covered except for the value of electrical and pumping equipment therein.
- E. Flood Insurance - The District will obtain and maintain adequate coverage on any facilities located in a special flood and mudslide prone areas.

12. Planning and Performing Development:

- A. The engineer should not be authorized to commence work on final plans and specifications until a determination has been made that the project can be planned and constructed within the estimated cost shown in paragraph "22" of this letter. The engineer may then proceed to develop final plans and specifications to be completed no later than 210 days from this date, and prepare bid documents. The Area Director is prepared to furnish the necessary guide to follow so as to keep the project plans and documents within our guidelines and requirements. The project should not be advertised for construction bids until all easements and enforceable options have been obtained, and total funds are committed or available for the project.

- B. The following documents will be submitted to Rural Development for review and must be concurred in by Rural Development prior to advertisement for construction bids:
1. Final plans, specifications and bid documents.
  2. Applicant's letter on efforts to encourage small business and minority-owned business participation.
  3. Legal Service Agreements.
  4. Engineering Agreements.

Revision in these documents will be subject to Rural Development concurrence. Any agreements, contracts, etc. not reviewed and approved by Rural Development will not be eligible for payment from project funds or revenues from facilities financed by this Agency.

Prior to receipt of an authorization to advertise for construction bids, the District will obtain advance clearance from Bond Counsel regarding compliance with KRS 424 pertaining to publishing of the advertisement for construction bids in local newspapers and the period of time the notice is required to be published.

13. Civil Rights & Equal Opportunity:

You should be aware of and will be required to comply with other federal statute requirements including but not limited to:

A. Section 504 of the Rehabilitation Act of 1973:

Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Rural Development financial assistance.

B. Civil Rights Act of 1964:

All borrowers are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and Subpart E of Part 1901 of this Title, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by paragraph 1901.202(e) of this Title.

C. The Americans with Disabilities Act (ADA) of 1990:

This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, state and local government services, public transportation, public accommodations, facilities, and telecommunications. Title II of the Act applies to facilities operated by state and local public entities that provide services, programs, and activities. Title III of the Act applies to facilities owned, leased, or operated by private entities that accommodate the public.

D. Age Discrimination Act of 1975:

This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Rural Development financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap.

14. Closing Instructions:

The Office of General Counsel, our Regional Attorney, will be required to write closing instructions in connection with this loan. Conditions listed therein must be met by the District.

15. Compliance with Special Laws and Regulations:

The District will be required to conform to any and all state and local laws and regulations affecting this type project.

16. Treatment Plant/System Operator:

The District is reminded that the treatment plant and/or system operator must have an Operator's Certificate issued by the State.

17. Prior to Pre-Closing the Loan, the District Will Be Required to Adopt:

- A. Form RUS Bulletin 1780-27, "Loan Resolution (Public Bodies)."
- B. Form RD 400-1, "Equal Opportunity Agreement."
- C. Form RD 400-4, "Assurance Agreement."
- D. Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transaction."
- E. Form RD 1910-11, "Applicant Certification Federal Collection Policies for Consumer or Commercial Debts."
- F. RD Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans."
- G. RUS Bulletin 1780-22, "Eligibility Certification."

18. Refinancing and Graduation Requirements:

The District is reminded that if at any time it shall appear to the Government that the District is able to refinance the amount of the RUS indebtedness then outstanding, in whole or in part, by obtaining a loan from commercial sources at reasonable rates and terms, upon the request of the Government, the District will apply for and accept such loan in sufficient amount to repay the Government.

19. Commercial Interim Financing:

The District will be required to use commercial interim financing for the project during construction for the RUS loan portion of the financing, if available at reasonable rates and terms.

Before the loan is closed, the District will be required to provide Rural Development with statements from the contractor, engineer and attorneys that they have been paid to date in accordance with their contract or other agreements and, in the case of the contractor, that he has paid his suppliers and sub-contractors.

20. Disbursement of Project Funds:

A construction account for the purpose of disbursement of project funds (RUS) will be established by the District prior to start of construction. The position of officials entrusted with the receipt and disbursement of RUS project funds will be covered by a "Fidelity Bond," with USDA Rural Development as Co-Obligee, in the amount of construction funds on hand at any one time during the construction phase.

During construction, the District shall disburse project funds in a manner consistent with subsection 1780.76 (e) of RUS Instruction 1780. Form RD 1924-18, "Partial Payment Estimate," or similar form approved by Rural Development, shall be used for the purpose of documenting periodic construction estimates, and shall be submitted to Rural Development for review and acceptance. Prior to disbursement of funds by the District, the Board of Directors shall review and approve each payment estimate. All bills and vouchers must be approved by Rural Development prior to payment by the District.

Form RD 440-11, "Estimate of Funds Needed for 30-Day Period Commencing \_\_\_\_\_," will be prepared by the District and submitted to Rural Development in order that a periodic advance of federal cash may be requested.

Monthly audits of the District's construction account records shall be made by Rural Development.

21. Disbursement of Grant Funds:

The RUS funds will be advanced as they are needed in the amount(s) necessary to cover the RUS proportionate share of obligations due and payable by the District. Grant funds, upon receipt, must be deposited in an interest bearing account in accordance with 7 CFR part 3016 (as applicable). Interest earned on grant funds in excess of \$100 (as applicable) per year will be submitted to RUS at least quarterly.

22. Cost of Facility:

## Breakdown of Costs:

Development	\$ 1,461,400
Land and Rights	20,000
Legal and Administrative	25,000
Engineering	187,000
Interest	10,000
Contingencies	<u>164,400</u>
TOTAL	\$ 1,867,800

## Financing:

RUS Loan	\$ 650,000
RUS Grant	250,000
EPA Grant	<u>967,800</u>
TOTAL	\$ 1,867,800

23. Commitment of Other Project Funds:

This Letter of Conditions is issued contingent upon a firm commitment being in effect prior to advertising for construction bids for the EPA grant in the amount of \$967,800.

24. Use of Remaining Project Funds:

After providing for all authorized costs, any remaining project funds will be considered to be RUS/EPA grant funds and refunded in proportion to participation in the project. If the amount of unused grant funds exceeds the grants, that part would be RUS loan funds.

25. Proposed Operating Budget:

You will be required to submit to Rural Development a copy of your proposed annual operating budget that supports the proposed loan repayment prior to this agency giving you written authorization to proceed with the bidding phase. The operating budget should be based on a typical year cash flow, subject to completion of this project in the first full year of operation. Form RD 442-7, "Operating Budget," or similar form may be utilized for this purpose.

26. Rates and Charges:

Rates and charges for facilities and services rendered by the District must be at least adequate to meet cost of maintaining, repairing and operating the utility system and meeting required principal and interest payments and the required deposits to debt service and/or depreciation reserve.

Sewer rates will be at least:

First	2,000	gallons @ \$	12.00 - Minimum Bill.
All Over	2,000	gallons @ \$	6.00 - per 1,000 gallons.

27. Compliance with the Bioterrorism Act:

Prior to pre-closing the loan, the District will provide a certification they have completed a Vulnerability Assessment (VA) and prepared an emergency response plan (ERP) as required by the Safe Drinking Water Act (SDWA).

28. Floodplain Construction:

The District will be required to pass and adopt a Resolution or amend its By-Laws whereby the District will deny any sewer service to any future customer wishing to build on or develop property located within a designated floodplain. If a customer or developer requests service for construction in a designated floodplain, the customer or developer must provide evidence and a justification for approval by the District and Rural Development officials that there are no other alternatives to construction or development within the designated floodplain. The community must be a participant in the National Flood Insurance Program (NFIP) and the customer or developer must obtain the required permits prior to the tap on restrictions being waived.

29. Mitigation Measures:

- A. The project shall be in compliance with all requirements noted in the Governor's Office for Local Development letter dated July 21, 2004 and updated June 21 2005, from Mr. Ronald W. Cook, Manager.
- B. The design and construction shall be in compliance with the requirements of the U.S. Fish and Wildlife Service as requested by letter dated March 9, 2005, and signed by Virgil Lee Andrews, Jr., Field Supervisor.
- C. The line design and construction shall be accomplished in a way that will leave flood plains and farmland without affect after construction is complete. The Army Corps of Engineers Nationwide Permit No. 12 applies to all floodplain and wetland utility line construction.
- D. The design and construction shall be in compliance with all local, state and federal environmental statutes, regulations and executive orders applicable to the project.

30. Final Approval Conditions:

Final approval of this assistance will depend on your willingness, with the assistance of all your co-workers, to meet the conditions of this letter in an orderly and systematic manner. Then too, final approval will depend on funds being available.



If you desire to proceed with your application, the Area Director will allot a reasonable portion of time to provide guidance in application processing.

Sincerely,

  
KENNETH SLONE  
State Director

Enclosures

cc: Area Director - Morehead, Kentucky  
Rural Development Manager - Prestonsburg, Kentucky  
Big Sandy ADD - Prestonsburg, Kentucky  
Daniel Stratton - Prestonsburg, Kentucky  
✓ Rubin and Hays - Louisville, Kentucky  
Kenvirons, Inc. - Frankfort, Kentucky  
PSC - ATTN: Bob Amato - Frankfort, Kentucky



**United States Department of Agriculture  
Rural Development  
Kentucky State Office**

September 11, 2006

Ms. Toni Akers, Chairperson  
Mountain Water District  
P.O. Box 3157  
Pikeville, Kentucky 41502

Re: Letter of Conditions Dated December 20, 2005

Dear Ms. Akers:

This letter shall serve as Amendment No. 1 to the Letter of Conditions dated December 20, 2005. The purpose of this amendment is to revise the project cost and funding sources as a result of a cost overrun and to revise the rate schedule.

The Second Paragraph on Page 1 is revised to read as follows:

“ This letter is not to be considered as loan and/or grant approval or as a representation as to the availability of funds. The docket may be completed on the basis of a RUS loan not to exceed \$650,000; a RUS grant not to exceed \$250,000; an Environmental Protection Agency (EPA) grant of \$967,800; and a cash contribution from the City of Pikeville of \$143,120. ”

Paragraph numbered “22” is revised to read as follows:

“ 22. Cost of Facility:

Breakdown of Costs:

Development	\$ 1,673,540
Land and Rights	20,000
Legal and Administrative	30,000
Engineering	193,700
Interest	10,000
Contingencies	<u>83,680</u>
<b>TOTAL</b>	<b>\$ 2,010,920</b>

Financing:

RUS Loan	\$ 650,000
RUS Grant	250,000
EPA Grant	967,800
City of Pikeville Cash Contribution	<u>143,120</u>
<b>TOTAL</b>	<b>\$ 2,010,920 ”</b>

771 Corporate Drive • Suite 200 • Lexington, KY 40503  
Phone: (859) 224-7336 • Fax: (859) 224-7444 • TDD: (859) 224-7422 • Web: <http://www.rurdev.usda.gov/ky>

Committed to the future of rural communities.

“USDA is an equal opportunity provider, employer and lender.”  
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1400 Independence Avenue, SW, Washington, DC 20250-9410  
or call (800) 795-3272 (voice) or (202) 720-6382 (TDD).

Paragraph numbered "23" is revised to read as follows:

" 23. Commitment of Other Project Funds:

This Letter of Conditions is issued contingent upon a firm commitment being in effect prior to advertising for construction bids for the EPA grant in the amount of \$967,800 and for the City of Pikeville cash contribution in the amount of \$143,120. "

Paragraph numbered "26" is revised to read as follows:

" 26. Rates and Charges:

Rates and charges for facilities and services rendered by the District must be at least adequate to meet cost of maintaining, repairing and operating the sewer system and meeting required principal and interest payments and the required deposits to debt service and/or depreciation reserve.

Sewer rates will be at least:

First 2,000 gallons @ \$ 14.00 - Minimum Bill.  
All Over 2,000 gallons @ \$ 6.00 - per 1,000 gallons. "

Paragraph numbered "31" is added to read as follows:

" 31. Compliance with the Bioterrorism Act:

Prior to pre-closing the loan, the District will provide a certification they have completed a Vulnerability Assessment (VA) and prepared an emergency response plan (ERP) as required by the Safe Drinking Water Act (SDWA). "

All other provisions of the referenced Letter of Conditions remain in full force and unchanged.

Sincerely,

  
KENNETH SLONE  
State Director

cc: Area Director - Morehead, Kentucky  
Rural Development Manager - Prestonsburg, Kentucky  
Big Sandy ADD - Prestonsburg, Kentucky  
/ Rubin and Hays - Louisville, Kentucky  
Daniel Stratton - Prestonsburg, Kentucky  
Kenviron, Inc. - Frankfort, Kentucky  
PSC - ATTN: Bob Amato - Frankfort, Kentucky





United States Department of Agriculture  
Rural Development  
Kentucky State Office

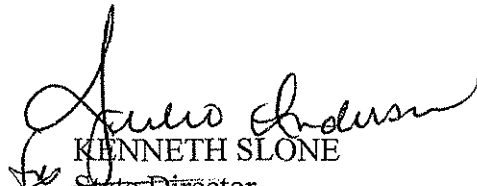
September 19, 2006

SUBJECT: Mountain Water District  
Cowpen Sewer Extension  
Contract Award Concurrence

TO: Area Director  
Morehead, Kentucky

Based on the bids received and the recommendation of the consulting engineer, Rural Development concurs in the award of subject contract to the low bidder on Contract 1, US Rental and Construction, Inc., in the amount of \$975,150.00, and the low bidder on Contract 2, Music Construction, Inc., in the amount of \$369,390.00, and the purchase of grinder pumps from a pre-existing contract with E-One in the amount of \$329,000.00.

If you have any questions, please contact Julie Anderson, State Engineer, at (859) 224-7348.

  
KENNETH SLONE  
State Director  
Rural Development

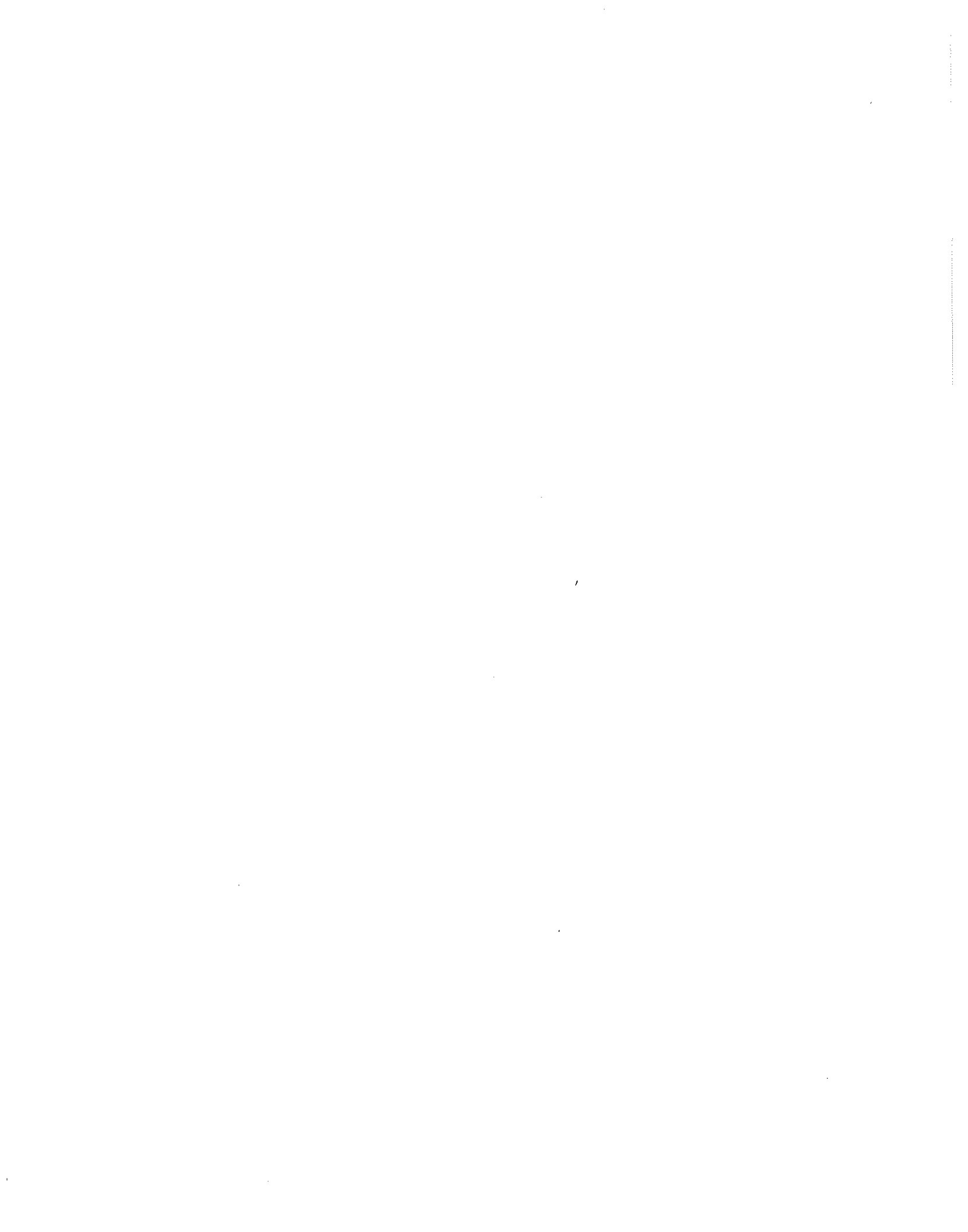
cc: Kenvirons, Inc.  
Frankfort, Kentucky

~~Rubin and Hayes  
Louisville, Kentucky~~

771 Corporate Drive • Suite 200 • Lexington, KY 40503  
Phone: (859) 224-7300 • Fax: (859) 224-7425 • TDD: (859) 224-7422 • Web: <http://www.rurdev.usda.gov/ky>

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**NOTICE OF PROPOSED RATE CHANGE**

In accordance with the requirements of the Public Service Commission of the Commonwealth of Kentucky as set out in 807 KAR 5:069, Section 2, notice is hereby given to the customers of the Mountain Water District of a change to the District's rate schedule as set forth herein. The proposed rate change is required by USDA, Rural Development in connection with a loan by RD to the District in the amount of \$650,000 to be evidenced by the issuance by the District of its Sewer System Revenue Bonds in such amount, which RD has agreed to purchase provided the District meets certain conditions of RD, including revising its sewer charges as set forth below:

**Current Monthly Rates**

First 2,000 gallons	\$12.00 minimum bill
All over 2,000 gallons	6.00 per 1,000 gallons

**Proposed Monthly Rates**

First 2,000 gallons	\$14.00 minimum bill
All over 2,000 gallons	6.00 per 1,000 gallons

The RD loan proceeds will be used in conjunction with an RD Grant in the amount of \$250,000; an EPA grant in the amount of \$967,800, and a contribution from the City of Pikeville in the amount of \$143,120 to finance the costs of the extension of sewer service to the residents of Cowpen Creek and Harmons Branch and the redirection of sewer flow from the Mossy Bottom sewer treatment plant to the City of Pikeville treatment plant. Signed: Toni Akers, Chairperson, Mountain Water District